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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,185	12/14/2000	Danny Charles Bowman	2552-011	9139

4678 7590 06/02/2008  
MACCORD MASON PLLC  
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EXAMINER
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GAKH, YELENA G

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1797

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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Mailed : 6-2-08

In re Application of

Danny C. Bowman, et al.

Serial No. 09/737,185

Filed: December 14, 2000

For: PAPERLESS CHAIN OF CUSTODY EVIDENCE  
FOR LAB SAMPLES

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: DECISION  
: GRANTING  
: PETITION  
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This is a decision on the PETITION TO HOLD BRIEF IN COMPLIANCE filed May 19, 2008.

The most recent of six appeal briefs was filed on March 31, 2008, and held non-compliant under 37 CFR 41.37 by the examiner in a "Notification of Non-Compliant Appeal Brief" mailed April 21, 2008.

The instant petition was then timely filed on May 19, 2008 and is before the Director of Technology Center 1700 for consideration. The petition requests that the Notification of Non-Compliant Appeal Brief of be withdrawn.

The petition is **GRANTED** for the reasons below.

## DECISION

As stated in the Notification of April 21, 2008, the examiner held the brief non-compliant because the summary of the claimed subject matter allegedly failed to properly map the limitation of collecting and transporting vessels at the vessel distribution facility, and because the summary of the claimed subject matter included five pages that are allegedly not directed to the claimed invention.

With respect to the first issue, as stated in MPEP 1207.02 and form paragraph 12.153.02, if the examiner disagrees with applicant's summary of the claimed subject matter (as is the case here), the examiner should simply explain the alleged deficiency in the answer and include a correction, rather than holding the brief non-compliant.

With respect to the second issue, as noted in the Federal Register (Vol. 69, No. 155) when the current rules were published "[a]ppellant may include any other information of record which will aid the Board in considering the subject matter of each independent claim." Further, 37 CFR 41.37(c)(1)(v) does not specifically prohibit inclusion of additional material in addition to the concise explanation. So long as the summary contains a readily discernable concise explanation it may contain other information as well. Therefore, the brief can not be properly deemed non-compliant for not being limited to the claimed subject matter.

As the Notification of Non-Compliant Appeal Brief mailed April 21, 2008 fails to properly identify any actual issues of non-compliance under 37 CFR 41.37, applicant's petition is hereby **GRANTED** and the Notification of April 21, 2008 is withdrawn.

The examiner shall reconsider the appeal brief of March 31, 2008 and take appropriate action in response thereto.



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